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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DWAIN BRAZIL,

Plaintiff,

v.

CORRECTIONS OFFICER
GOMEZ, et al.,

Defendants.

Case No. CV 10-2814-ODW(OP)

ORDER ACCEPTING FINDINGS,
CONCLUSIONS, AND
RECOMMENDATIONS OF
UNITED STATES MAGISTRATE
JUDGE

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Complaint, all the records and files herein, and the Report and Recommendation of the United States Magistrate Judge. The Court accepts the findings, conclusions, and recommendations of the Magistrate Judge,

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1 IT IS HEREBY ORDERED that: (1) approving and adopting this Report
2 and Recommendation; (2) denying Defendant Pulling's and Gomez's Motion to
3 Dismiss for failure to exhaust administrative remedies without prejudice; (3)
4 denying Defendants' Motion to Dismiss Plaintiff's Eighth Amendment claim
5 pursuant to Rule 12(b)(6); (4) granting Defendants' Motion to Dismiss the official
6 capacity claims for damages against Defendants Pulling and Gomez with
7 prejudice; and (5) ordering Defendants Pulling and Gomez to file an Answer to the
8 Complaint within thirty days of the entry of the order adopting this Report and
9 Recommendation.

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11 DATED: January 13, 2012


HONORABLE OTIS D. WRIGHT, II.
United States District Judge

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14 Prepared by:

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17 HONORABLE OSWALD PARADA
18 United States Magistrate Judge
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